

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except a provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

**I. (a) PLAINTIFFS**  
KAI HON SHUM(b) County of Residence of First Listed Plaintiff King  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)  
Carmon M. Harvey, Esq., LeClairRyan, One Liberty Place, 1650 Market Street, 36th Floor, Philadelphia, PA 19103; 215-383-0912**DEFENDANTS**  
BIOMETRIC IMAGING, INC.County of Residence of First Listed Defendant Philadelphia  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	PTF	DEF
<input type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 5
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 6

Citizen or Subject of a Foreign Country

 3  3 Foreign Nation**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>LABOR</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 490 Cable/Sat TV
<input checked="" type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 890 Other Statutory Action
<input type="checkbox"/> 196 Franchise			<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 891 Agricultural Acts
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>		<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<b>Habeas Corpus:</b>	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 864 SSDI Title XVI	<input type="checkbox"/> 899 Administrative Proceed Act/Review or Appeal Agency Decision
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities Employment	<input type="checkbox"/> 535 Death Penalty		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities Other	<b>Other:</b>		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
			<b>FEDERAL TAX SUITS</b>	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			<b>IMMIGRATION</b>	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

**V. ORIGIN** (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District	<input type="checkbox"/> 6 Multidistrict Litigation (specify)
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**VI. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC § 1332

Brief description of cause:  
Breach of contract for failure to pay Notes due and owing.

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \$946,137.66 CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE *June 27, 2016* SIGNATURE OF ATTORNEY OF RECORD *Carmon M. Harvey*

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 4315 53rd Avenue, N.E., Seattle, WA 98105

Address of Defendant: 325 Chestnut Street, Suite 610, Philadelphia, PA 19106

Place of Accident, Incident or Transaction: Philadelphia, Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

*RELATED CASE, IF ANY:*

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes  No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes  No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes  No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes  No

**CIVIL: (Place ✓ in ONE CATEGORY ONLY)**

A. *Federal Question Cases:*

1.  Indemnity Contract, Marine Contract, and All Other Contracts
2.  FELA
3.  Jones Act-Personal Injury
4.  Antitrust
5.  Patent
6.  Labor-Management Relations
7.  Civil Rights
8.  Habeas Corpus
9.  Securities Act(s) Cases
10.  Social Security Review Cases
11.  All other Federal Question Cases

(Please specify) \_\_\_\_\_

B. *Diversity Jurisdiction Cases:*

1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify)
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases

(Please specify) \_\_\_\_\_

**ARBITRATION CERTIFICATION**

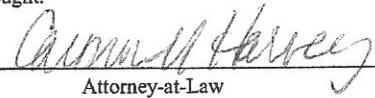
(Check Appropriate Category)

I, Carmon M. Harvey, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: June 27, 2016

  
\_\_\_\_\_  
Attorney-at-Law

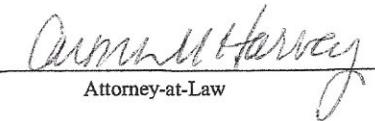
91444

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: June 27, 2016

  
\_\_\_\_\_  
Attorney-at-Law

91444

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**CASE MANAGEMENT TRACK DESIGNATION FORM**

Kai Hon Shum,	:	CIVIL ACTION
	:	
v.	:	
	:	
Biometric Imaging, Inc.	:	NO.
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

June 27, 2016	Carmon M. Harvey, Esq.	Kai Hon Shum
Date	Attorney-at-law	Attorney for Plaintiff
(215) 383-0912	(215) 383-0916	Carmon.Harvey@leclairryan.com
Telephone	FAX Number	E-Mail Address

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Kai Hon Shum, )  
                        )  
Plaintiff,         )  
                        )  
v.                    )      Civ. A. No. \_\_\_\_\_  
                        )  
Biometric Imaging, Inc., )  
                        )  
Defendant.         )

**COMPLAINT**

Plaintiff Kai Hon Shum (“Shum”), by his attorneys Carmon M. Harvey and LeClairRyan, hereby sues defendant Biometric Imaging, Inc., and for his causes of action states as follows:

**PARTIES**

1. Plaintiff Kai Hon Shum is an individual residing in the State of Washington.
2. Defendant Biometric Imaging, Inc. is a corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Philadelphia, Pennsylvania.

**FACTS COMMON TO ALL COUNTS**

3. Upon information and belief, Ralph Zuckerman (“Zuckerman”) served as president of Biometric Imaging, Inc. from its inception through 2015.
4. Biometric Imaging, Inc. was formed to serve as a vehicle for the development and exploitation of real time non-invasive metabolic imaging technology (the “Technology”).
5. Zuckerman and Plaintiff Shum were former neighbors in 2005 when Biometric Imaging, Inc. required additional infusions of capital in order to develop and exploit the Technology.

6. Shum and Zuckerman agreed that Shum would invest in, and loan money to, Biometric Imaging, Inc. through a series of equity infusions and loans.

**A. Note 1**

7. Shum loaned \$100,000.00 to Biometric Imaging, Inc. on March 7, 2005, as evidenced by a note signed by Zuckerman ("Note 1"), a copy of which is attached as Exhibit 1 and incorporated as though fully set forth herein.

8. Note 1 provided for interest at the rate of 2%, compounded annually, with a two year maturity.

9. Note 1 was renewed on March 5, 2007, pursuant to an email exchange between Zuckerman and Shum. The interest rate on Note 1 was increased to 4.75%, and the maturity extended by an additional two years. A copy of the email exchange renewing Note 1 is attached hereto as Exhibit 2 and incorporated by reference.

10. Note 1 was renewed a second time on April 15, 2009, by a renewal agreement that changed the interest rate to 2.8% per annum and extended the maturity date by an additional two years, through March 7, 2011. A copy of the April 15, 2009 renewal of Note 1 is attached hereto as Exhibit 3 and incorporated by reference.

**B. Note 2**

11. Shum loaned \$105,305.00 to Biometric Imaging, Inc. on November 30, 2005, as evidenced by a note signed by Zuckerman ("Note 2"), a copy of which is attached as Exhibit 4 and incorporated as though fully set forth herein.

12. Note 2 provided for interest at the rate of 2%, compounded annually, with a two year maturity.

13. Note 2 was amended on February 14, 2006 to increase the interest rate from 2% to 3.2%. A copy of the email exchange regarding this amendment is attached hereto as Exhibit 5 and incorporated as though fully set forth herein.

14. Note 2 was renewed on January 5, 2008, at which time the interest rate was increased to 4.75% per annum, and its term extended two years from December 1, 2007. A copy of the renewal is attached hereto as Exhibit 6 and incorporated as though fully set forth herein.

**C. Note 3**

15. Shum loaned \$200,000.00 to Biometric Imaging, Inc. on October 23, 2006, as evidenced by a note signed by Zuckerman (“Note 3”), a copy of which is attached as Exhibit 7 and incorporated as though fully set forth herein.

16. Note 3 provided for interest at the rate of 4.75% per annum, compounded annually, with a two year maturity.

17. Note 3 was renewed on November 1, 2008, for an additional two year term from October 26, 2008, all other terms remained the same.

**D. Note 4**

18. Shum loaned \$20,000.00 to Biometric Imaging, Inc. on October 30, 2006, as evidenced by a note signed by Zuckerman (“Note 4”), a copy of which is attached as Exhibit 8 and incorporated as though fully set forth herein.

19. Note 4 provided for interest at the rate of 4.75%, compounded annually, with a two year maturity.

20. Note 4 was renewed on November 1, 2008, extending its term for two years from October 30, 2008.

**E. Note 5**

21. Shum loaned \$50,000.00 to Biometric Imaging, Inc. on May 25, 2007, as evidenced by a note signed by Zuckerman (“Note 5”), a copy of which is attached as Exhibit 9 and incorporated as though fully set forth herein.

22. Note 5 provided for interest at the rate of 4.75% per annum, compounded annually, with a three year maturity.

**F. Note 6**

23. Shum loaned \$150,000.00 to Biometric Imaging, Inc. on January 5, 2008, as evidenced by a note signed by Zuckerman (“Note 6”) (Note 1 through Note 6 are collectively referred to herein as the “Notes”), a copy of which is attached as Exhibit 10 and incorporated as though fully set forth herein.

24. Note 6 provided for interest at the rate of 4.75%, compounded annually, with a two year maturity.

**G. 2011 Acknowledgement**

25. On July 17, 2011, Shum sent an email to Zuckerman in which he stated:

This is also a good time to clean up the company’s books. I do want to let you know that several weeks ago, my accountant tallied up the six loans that I had previously extended to Biometric. As you know, these loans were extended during times of urgent need, and the loan repayments are past due. The loans are recorded in our company’s tax returns, and the balance due is \$764,472. We have two options of dealing with this: one way is to repay me in cash as soon as possible; and the second way is to convert the balance due into equity, and be added to my existing equity.

26. Zuckerman responded later on July 17, 2011:

Your loan will be repaid with interest at the time I sell the ophthalmic portion. At that time you will get about 12 million dollars and my own money that I make will go to charity. If you do the arithmetic you will realize that your return on investment is huge and your loan plus interest will be repaid at that time.

27. Shum acknowledged Zuckerman's email later on July 17, 2011, stating:

If . . . the loans can't be paid off now, at least the company has to know the balance.

28. In their July 17, 2011 email exchange, Zuckerman also informed Shum:

Biometric will be an LLC instead of an S corp. We will issue you stock certificates corresponding to your percentage as will other prior investors.

29. On July 17, 2011, Shum acknowledged "I think what you mean is that Biometric will become a LLC." A copy of pertinent portions of the July 17, 2011 email exchange (the "July 17 Email") is attached hereto as Exhibit 11.

30. Biometric Imaging, LLC was formed on July 14, 2011.

31. Upon information and belief, following the formation of Biometric Imaging, LLC, Biometric Imaging, Inc. became a member of Biometric Imaging, LLC and Biometric Imaging, LLC received an assignment of the assets of Biometric Imaging, Inc., and assumed its liabilities, including the obligations owed to Shum, however Shum has never released Biometric Imaging, Inc. from liability on the Notes.

#### **H. Current Balance Due**

32. As of May 23, 2016, the total balance due on Note 1 was \$139,309.50, comprised of \$138,503.33 in principal and \$806.17 in interest accrued since March 6, 2016.

33. As of May 23, 2016, the total balance due on Note 2 was \$166,272.45, comprised of \$162,570.09 in principal and \$3,702.37 in interest accrued since November 30, 2015.

34. As of May 23, 2016, the total balance due on Note 3 was \$312,137.34, comprised of \$303,680.06 in principal and \$8,457.28 in interest accrued since October 22, 2015.

35. As of May 23, 2016, the total balance due on Note 4 was \$31,186.07 comprised of \$30,368.01 in principal and \$818.06 in interest accrued since October 29, 2015.

36. As of May 23, 2016, the total balance due on Note 5 was \$75,872.86, comprised of \$72,477.34 in principal and \$3,395.51 in interest accrued since May 29, 2015.

37. As of May 23, 2016, the total balance due on Note 6 was \$221,336.87, comprised of \$217,432.03 in principal and \$3,904.87 in interest accrued since January 6, 2016.

38. The total balance due on the Notes, as of May 23, 2016, was Nine Hundred Forty-six Thousand One Hundred Thirty-seven Dollars and Sixty-six Cents (\$946,137.66).

39. To date, none of the Notes has been repaid and each remains fully outstanding.

#### I. Subsequent Communication

40. On January 21, 2016, Shum received a letter from the law firm Bronson & Kahn LLC stating:

We are counsel to Biometric Imaging, LLC, a Delaware limited liability company (“BILLC”). It is our understanding that you may be an investor in BILLC.

A copy of the January 21, 2016 letter is attached hereto as Exhibit 12.

COUNT I  
BREACH OF CONTRACT AGAINST BIOMETRIC IMAGING, INC.

41. Shum re-alleges the allegations in Paragraphs 1 through 40 above and incorporates them herein.

42. Upon information and belief, Biometric Imaging, LLC has sold all, or substantially all, of its assets, including but not limited to the ophthalmic application of the technology, and the Notes are fully due and payable.

43. Biometric Imaging, Inc. has failed to pay any of the Notes, which failure constitutes a breach of contract.

WHEREFORE, Plaintiff Kai Hon Shum demands judgment against Defendant Biometric Imaging, Inc. in the amount of as of May 23, 2016 of \$946,137.66, together with pre and post-judgment interest, and costs of this action.

COUNT II  
UNJUST ENRICHMENT AGAINST BIOMETRIC IMAGING, INC.

44. Shum re-alleges the allegations in Paragraphs 1 through 40 above and incorporates them herein.

45. Shum conferred on Biometric Imaging, Inc. a benefit in the form of infusions of capital in the total amount of \$625,305.00, plus all unpaid pre-judgment interest in an amount as of May 23, 2016 of \$320,832.66, in order to develop and exploit the Technology, as reflected in the Notes and related amendments and renewals attached as Exhibits 3-10.

46. Biometric Imaging, Inc. appreciated the benefit of the capital infusions reflected in the Notes and related amendments and renewals attached as Exhibits 3-10.

47. Biometric Imaging, Inc. accepted the benefit of the infusions of capital from Shum and, under such circumstances, it is inequitable and unconscionable for Biometric Imaging, Inc. to retain the benefit without payment of value in the amount as of May 23, 2016 of \$625,305.00, plus unpaid pre-judgment interest in the amount as of May 23, 2016 of \$320,832.66, totalling \$946,137.636 in benefits to Biometric Imaging, Inc. as of May 23, 2016.

WHEREFORE, Plaintiff Kai Hon Shum demands judgment against Defendant Biometric Imaging, Inc. in the amount of \$625,305.00, plus all unpaid pre-judgment interest in an amount as of May 23, 2016 of \$320,832.66, post-judgment interest, and costs of this action.

COUNT III  
DECLARATORY JUDGMENT AS TO BIOMETRIC IMAGING, INC.

48. Shum re-alleges the allegations in Paragraphs 1 through 40 above and incorporates them herein.

49. Upon information and belief, Biometric Imaging, Inc. takes the position that the Notes are time-barred pursuant to the applicable statute of limitations.

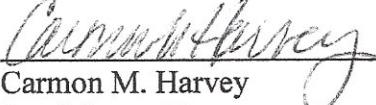
50. Shum asserts that the July 17, 2011 email exchange modified the terms of the Notes to make them payable upon the sale of the ophthalmic portion of the Biometric Imaging, Inc. assets (subsequently transferred to Biometric Imaging, LLC in exchange for an equity interest in Biometric Imaging, LLC).

51. To the extent Biometric Imaging, LLC has not sold the ophthalmic portion of the assets transferred to it by Biometric Imaging, Inc., Shum is entitled to a declaration of his rights with respect to the continued vitality of the Notes.

52. A real and justiciable dispute exists as to the terms of the Notes.

WHEREFORE, Plaintiff Kai Hon Shum requests that this Court issue a judgment declaring that the Notes are due and payable upon the sale of the ophthalmic portion of the Biometric Imaging, Inc. assets previously transferred to Biometric Imaging, LLC, and have a balance, as of May 23, 2016, of \$946,137.66.

LECLAIRRYAN

  
\_\_\_\_\_  
Carmon M. Harvey  
One Liberty Place  
1650 Market Street, 36th Floor  
Philadelphia, Pennsylvania 19103  
Phone: 215.383.0912  
Fax: 215.383.0916  
carmon.harvey@leclairryan.com

*Attorneys for Plaintiff*

Dated: June 27, 2016

# EXHIBIT 1

4315 53<sup>rd</sup> Avenue NE  
Seattle, Washington 98105  
March 7, 2005

Re: USD\$100,000 Personal Loan from Kai Hon Shum to Biometric Imaging, Inc.

Dear Dr. Ralph Zuckerman:

Please find with this letter, my personal check (#1113) for USD \$100,000. This sum of money is my personal loan to Biometric Imaging, Inc. for purposes of bridging a potential shortfall in the company's operational expenses.

Pertaining to this loan, the following terms apply:

- 1) This loan is subject to a 2% per annum interest rate.
- 2) Interest shall be compounded annually at the 2% rate.
- 3) The term of this loan shall not exceed 2 years from the date of this letter.
- 4) Interest and principle shall be repaid in one-payment within the term period of 2-years. The preference for this total repayment shall be at the earliest possible time within the 2-year term.
- 5) In the event I become mentally incompetent to handle the repayment transaction or to decease before the principle and interest are repaid, then these monies shall be repaid to my estate. If I am married, please contact my wife at (206)527-1888, or if I am not married, please contact my brother at (206)417-4807.

Please sign and date in the space below to signify your agreement to having received this loan, and as agreement to comply with all the conditions outlined in this letter. Two originals of this letter are hereby attached. Please sign both originals, and send one original back to me at the address above.

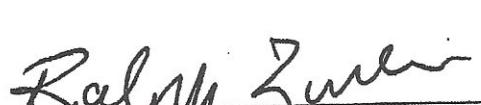
Sincerely,



Kai Hon Shum

From Biometric Imaging, Inc. to Kai Hon Shum:

I agree to having received this USD\$100,000 loan from you, and to the terms outlined in this letter.



Ralph Zuckerman, President  
Biometric Imaging, Inc.

03/09/05  
Date

# EXHIBIT 2